

N IN The COURT OF CRIMINAL APPEAL OF ALABAMA

Billy G. AHS
APPELLANT

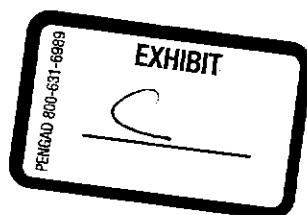
VS

CASE NO: CC-90-007-60
CC-90-008-60

STATE OF ALABAMA
APPELLEES

Petition FOR AN WRIT OF MANDAMUS, AND
PROHIBITION DIRECT TO A JUDGE OR JUDGES AND
OTHER EXTRA OR DINARY WRIT, AN ISSUE AN SHOW
CAUSE ON Hon: Tom F. Young JR. To Show Why this
ORDER Should Not Be ISSUE,

The APPELLANT Billy AHS move to file IN the
HONORABLE COURT With This INSTANT Petition FOR
AN WRIT OF MANDAMUS in the ABOVE style CAUSE
And ISSUE AN ORDER GRANTING the Fore SAID
Petition.



STATEment of the FACT

- IV
1. ON APRIL 5, 05 AN OMNIBUS motion FOR A BILL OF PARTICULARS ENAS Filed
 2. ON APRIL 5, 05 motion FOR DISCLOSURE OF MATTER OCCURRING BEFORE the GRAND Jury.
 3. ON APRIL 5, 05 motion FOR APPOINTMENT OF COUNSEL PURSUANT to Rule 32-7(B) AND (C) Rule 6 AND AIA, Code 1975 § 15-12-21
 4. ON APRIL 5, 05 motion to dismiss INDICTMENT PURSUANT to Rule 91 § 15-2-2
 5. ON APRIL 5, 05 motion FOR Judgement of ACQUITTAL Filed.
 6. ON APRIL 5, 05 motion to Act AS Co-Counsel WAS Filed.
 7. ON APRIL 5, 05 motion FOR Limine Filed.

ON APRIL 26, 05 The Court ordered the Clerk direct to MAIL A COPY of this ORDER to the office of the district Attorney AND A COPY to the defendant.

8. ON MAY 13, 05 motion FOR Final disposition WAS Filed.
9. ON MAY 13, 05 motion to order the State to Respond WAS Filed.
- 10 ON July 11, 05 motion FOR De novo Hearing WAS Filed.

- N 11 on July 11, 05 motion For Imposition of Sanction For A Violation of Rule of Criminal Procedure Rule 32 (A) was filed
- 12 on July 11, 05 motion For summary Judgment on the Pending was filed.
13. on July 11, 05 motion for more definite Statement of Order filed on April 26, 05 see Exhibit (F) (A) that Order Lack an order on the District Attorney to Respond on April 5, 05 Exhibit (C) (B) (D) and (E) was filed.

Statement of the Issue
Presented And the Relief Sought

Hon. Judge Tom F. Young JR. Refused to Issue And Order on Hon E Paul Jone.

MR ALLS ASK this Court to Issue An order on the Respondent Judge Hon E. Paul Jone.
 to file AN Response Address All the Allegation presented in the Pleading pending
 IN the Circuit County of Wilcox Alabama
 36278.

STATEment of the Reason Why The WRit Should ISSUE

N MR. Billy ALLS Had been Pre Judice With two ConSeCutive Life Sentences ThRUgh the Aid of tRiAl CounseL on Fed 1 1996. By AGReement that IF He Would Plead to the mURDER Charge And Received 20 year AN the RobbERY Charge Would Be DRopED See EXHibit (B) And Fobbow By Petinent PART: AS PER the PleA AGReement ANY other OFFenses CHARGed the INDICTment ARE dismissed FURTHER. AS PER the PleA AGReement CASE NO CC-90-008 is NOLLo PRESSED.

DUE PROCESS REQuIREment CONStitued A PROcedURAL GUARANTEED By the Fourteenth AmEndment to the United States CONStitution OF 1991, Broadly SPEAKing CONteMPlate the REQuIREment OF FAIR Play.

AN OPPORTunity to Petition the GOVERNment FOR Redress OF A Lost GriEVANCES, That why it Should ISSUE

N This Court HAVE Jurisdiction to ISSUE AN Show Cause AN Hon. Tom F. Young JR. to Show Why this WRIT Should Not Be GRANTED.

Bounds V Smith 52 Led 2b A7 778.

The Right to ACCESS to the Court is BASE on the FIRST And Fourteenth Amendment Right to Petition All BRANCHES OF GOVERNMENT FOR A Redress OF GrievANCES on the Fifth And Fourteenth Amendment GUARANTEES OF due PROCESS AND EQUAL PROTECTION OF the LAW AND ON the Sixth And Fourteenth Amendment Right to Counsel. Wolff V McDonnell 418 US 539, 579, 41 Led 2d 935, 94 Sct. 2963, 71 OHIO OPS 2d 336 PROCNER V MARTINEZ 416 US 396, 419 40 Led 2d 2241, 94 Sct, 1800. PETERSON V STATE 842 So 2d 734, AIA, CRIM, APP, 2001]

CRIMINAL LAW Key 1181.5(3-1)

CIRCUIT COURT FAILURE MAKE SPECIFIC FINDING OF FACT AS to double Jeopardy CLAIM ASSERTED IN Petition FOR Post Conviction Relief REQUIRED Remand FOR FINDING OF REGARDING ALLEGATIONS CONTAINED IN INDICTMENT AGAINST PETITIONER AND FELONY THAT PROVIDED BASIS FOR FELONY MURDER CONVICTION. See EXHIBIT (D) AND (E).

N See EVANS V State 773 So 2d 1060 (ALA Crim App. 2000).

CRIMINAL LAW Key 1181.5(3-1)

Remand WAS Required FOR Trial Court to Allow district Attorney [d A] to Respond to Post Conviction Relief Petition Alleging Lack of Jurisdiction to Accept Guilty Plea to First degree SEXUAL ABUSE BASE ON Agreement. See EXHIBIT (C) PERTINENT PART. BASED UPON Defendant Plea, the Court Finds The defendant Billy Gay AINS Guilty OF MURDER Which is A Lesser Included OFFENSE AS CHARGED IN the INdictment. And Further Finds The Defendant, Billy Gay AINS Guilty OF Robbery IN the First degree A Lesser Included offense AS CHARGE IN the INdictment see EXHIBIT (d) AND (E) see Cole V State 842 So 2d 608, 609. ALA Crim App 2002).

IF At the Guilty Plea Proceeding the INdictment WAS Amended the State WAS Required to Comply With Rule 13.5 (A) AND 13.2 (C) AND Confine it Amendment to Lesser offense NECESSARILY Included With IN the offense OF First DEGREE Robbery.

V MR. ALLS contend to this court that ACCORDING to ALABAMA CODE 1975, RULE 32.7(A) HE HAVE A RIGHT to the STATE RESPONSE AS REQUIRES BY CRIMINAL PROCEDURAL see BISHOP V STATE 592 SO 2d 664 (ALA CRIM APP. 1991).

A petition is entitled to notice AS to ANY ground of PRECLUSION so AS to ENABLE Him to FORMULATE A RESPONSE EX PARTE RICE 565 SO 2d 606 608 (ALA. 1990). see

JONE V STATE 724 SO 2d 75-76. (ALA. CRIM. APP 1998) [4-6] FIRST, ALTHOUGH RULE 32.7(A) MANDATES THAT THE STATE, DISTRICT ATTORNEY SHALL FILE A RESPONSE. CRIMINAL LAW KEY 1590. IN ORDER TO OBTAIN POSTCONVICTION A PETITIONER MUST ALLEGED FACT THAT IF PROVED WOULD ENTITLED him to RELIEF, RULE CRIM PROC RULE 32.1 ALA. CRIM. APP. 2003) ALLEGATION MADE IN A MANDAMUS PETITION ARE TAKEING AS TRUE UNLESS THE ARE REFUTED IN RESPONDENT'S ANSWER

EX PARTE MORRIS 877 SO 2d 634 see MORRE V STATE 878 SO 2d 328 (ALA CRIM. APP 2003) (8) RELEVANCY TO REBUT SPECIAL DEFENSES:

Conclusion

N The Appellant Billy Alls defendant in trial court that when the circuit Judge Hon Tom F. Young Jr. Refused to issue an order on Hon E. Paul Jone to Respond to the Alleged Allegations.

This writ should issue and order on the Respondent Judge to show why this writ should not be issue.

Billy Alls
Respectfully submitted

Certificate of Service

N
I here By Certify that I have ~~SERVER~~ A COPY
of the Above Fore going AN All PARTIES this the
September day of 1 2005 By placing
Same IN the ~~United~~ United State MAIL FIRST
CLASS POSTAGE PREPAID AND Addressed

Court of CRIMINAL APPEAL
State of ALABAMA
Judicial Building 300 Dexter Avenue
P.O. Box 301555
Montgomery ALABAMA 36130-1555

Office of Circuit Court Kim S. Benefield
Randolph County
P.O. Box 328
Wedowee ALABAMA 36278

Office of District Attorney E. Paul Jone
P.O. Box 609
Lafayette ALABAMA 36862

And the same is true here to

Billy All

9 Respectfully Submitted

COURT OF CRIMINAL APPEALS
STATE OF ALABAMA

H. W. "BUCKY" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges



Lane W. Mann
Clerk
Sonja McKnight
Assistant Clerk
(334) 242-4590
Fax (334) 242-4689

CR-04-2427

Ex parte Billy G. Alls (In re: State of Alabama vs. Billy G. Alls) (Randolph Circuit Court: CC90-7.60, CC90-8.60)

ORDER

Upon consideration of the above referenced Petition for Writ of Mandamus, the Court of Criminal Appeals ORDERS that said petition be and the same is hereby denied.

Done this the 21st day of September, 2005.



H.W. "Bucky" McMillan, Presiding Judge
Court of Criminal Appeals

cc: Hon. Kim S. Benefield, Circuit Clerk
Billy Gay Alls, Pro Se
Hon. Tom F. Young, Jr., Circuit Judge
Hon. Troy King, Attorney General
Hon. E. Paul Jones, District Attorney

IN THE SUPREME COURT OF ALABAMA



December 9, 2005

1050149

Ex parte Billy G. Alls. PETITION FOR WRIT OF CERTIORARI: CRIMINAL (In re: State of Alabama vs. Billy G. Alls) (Randolph Circuit Court: CC90-7.60, CC90-8.60; Criminal Appeals : CR-04-2427).

CERTIFICATE OF JUDGMENT

Writ Denied

The above cause having been duly submitted, IT IS CONSIDERED AND ORDERED that the petition for writ of certiorari is denied.

COST TAXED TO PETITIONER.

STUART, J. - Nabers, C.J., and See, Harwood, and Bolin, JJ., concur.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 9th day of December, 2005

Robert G. Esdale, Sr.
Clerk, Supreme Court of Alabama



IN THE SUPREME COURT OF ALABAMA

May 15, 2003

1021311

Ex parte Billy Gay Alls. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Billy Gay Alls v. State of Alabama) (Randolph Circuit Court: CC90-7; Criminal Appeals : Cr-02-0721).

ORDER

IT IS ORDERED that the petition for writ of certiorari filed in this cause on May 5, 2003, is dismissed pursuant to Rule 2 (c), Alabama Rules of Appellate Procedure, as untimely filed. See Rule 39 (c)(2), Alabama Rules of Appellate Procedure.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 15th day of May 2003

Robert G. Esdale, Sr.
Clerk, Supreme Court of Alabama